IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No: 05-CV-0329-GKF-PJC**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

STATE OF OKLAHOMA'S RESPONSE TO DEFENDANT TYSON FOODS, INC.'S MOTION TO COMPEL PRODUCTION OF PEER REVIEW MATERIALS OF PLAINTIFFS' (SIC) EXPERTS HARWOOD AND OLSEN

Plaintiff, the State of Oklahoma, ex. rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, J.D. Strong, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA (hereinafter "the State"), hereby responds to Defendant Tyson Foods, Inc.'s ("Tyson") "Motion to Compel Production of Peer Review Materials of Plaintiffs' [sic] Experts Harwood and Olsen" (Dkt. #1851) ("Motion to Compel") as follows:

INTRODUCTION AND BACKGROUND

As part of its Motion to Compel, Tyson repeatedly claims that the work of Drs. Valerie J. Harwood and Roger Olsen is "lawyer-driven." The implication – if not outright assertion – is that Drs. Harwood and Olsen have no credibility as scientists and that the State's attorneys have unduly influenced – if not actually conducted – Dr. Harwood's Polymerase Chain Reaction ("PCR") work and Dr. Olsen's Principal

Component Analysis ("PCA") work. Aside from being false, Tyson's claims in this regard are highly ironic under the circumstances surrounding the Motion to Compel.

Indeed, Tyson has used its lawyers and experts, who were retained and presumably compensated in this litigation, to actively and boldly influence and manipulate the scientific journal peer review process with respect to Dr. Harwood. This began on August 11, 2008, when Mr. Jay Jorgensen, a lawyer for Tyson, sent a detailed letter (and about 90 pages of attachments), on Sidley Austin letterhead, to the editor-in-chief of *Applied & Environmental Microbiology* ("AEM") for the express purpose of calling AEM's attention to purported "inaccuracies, material omissions, and flawed conclusions" that Mr. Jorgensen argues "should be of substantial concern…" *See* Dkt. #1851-15.

AEM is a peer-reviewed scientific journal which "publishes a substantial share of the most significant current research in the areas of biotechnology, microbial ecology, food microbiology, and industrial microbiology."[1] Dr. Harwood, and *not* the State, independently submitted a manuscript of her poultry-related PCR work to AEM for possible publication.

As noted in the Motion to Compel, Tyson first sought production of peer review journal materials in April 2008 with respect to the PCR work of Dr. Harwood and PCA work of Dr. Olsen. Motion to Compel at 3. To this day, Dr. Olsen has yet to submit any manuscript of his PCA work to a peer reviewed journal for consideration – so there has not been anything to produce. However, the State produced a large volume of peer review-related materials with respect to Dr. Harwood's PCR work well before the Motion

[1] *See* http://aem.asm.org/misc/about.shtml.

to Compel was filed. First, in May 2008, the State produced all its experts' correspondence, which included substantial peer review-related materials, including draft abstracts and email communications. *See* Dkt. #1851-9 at 3-5. And, on July 16, 2008, the State produced Dr. Harwood's first manuscript submission to AEM. *Id.* at 5; 14-75. There was very little activity in the peer review context – and very few peer review documents generated – between July and October 2008. Additionally, Dr. Harwood did not submit her second manuscript to AEM until December 2008.

There has never been any doubt about whether Dr. Harwood's poultry-related PCR work was conducted in connection with this litigation. In the manuscript itself, Dr. Harwood disclosed to AEM that her PCR work had been "carried out as part of [this] ongoing litigation . . . ." Dkt. #1851-15 at 13 of 98. Still, the State never even contemplated contacting AEM. And after being informed that Dr. Harwood had submitted her manuscript for consideration, the State assumed that her work would be neutrally evaluated by capable scientists without any outside influence. However, the neutrality of that process was compromised in a dramatic fashion with Tyson's counsel's August 11, 2008 letter.

In the August 11, 2008 letter to AEM, Tyson's counsel relies heavily on the opinions of some of Defendants' experts retained for this litigation to present a one-sided, unfair and inaccurate critique of Dr. Harwood's work. The intent of the letter was clear. It was an attempt to inaccurately paint Dr. Harwood as nothing more than a purported "gun for hire" whose conclusions were pre-determined by the State's lawyers. *See* Dkt. #1851-15 at 9 of 98 Leaving aside the irony that the very "science" Tyson's counsel relies on to assail Dr. Harwood was prepared at the request of *Defendants'* attorneys, the

one-sided letter creates the erroneous impression that Dr. Harwood has no scientific scruples or dignity. The letter represents the worst kind of litigation ploy. It is calculated to gain a tactical advantage by unfairly smearing the reputation of Dr. Harwood, a highly respected and recognized leader in the field of microbial source tracking ("MST").[2]

On October 1, 2008, lawyers for Tyson contacted AEM for a second time via email. *See* Dkt. #1851-25. Counsel for the State was not copied on this email. In the October 1, 2008 email, counsel for Tyson advised AEM's editor-in-chief that the Court had denied the State's Motion for Preliminary Injunction and that the Court "made it a point to note that both Professor Harwood's and Dr. Olson's [sic] work failed to satisfy the standards of reliability required by the Supreme Court in" *Daubert*. *Id.* Notably, counsel for Tyson did not inform AEM that part of the Court's rationale for its *Daubert* holding was that Drs. Harwood and Olsen's work had "not [yet] been peer reviewed or published." *Id.*; and Dkt. #1765 at 7. Counsel for Tyson also failed to mention that the Court had twice admitted the testimony and conclusions of Drs. Harwood and Olsen into

---

[2] Dr. Harwood is the author of 28 peer reviewed publications, over 30 technical reports, a book chapter, and has been an invited speaker on water quality research and MST over 50 times across the U.S., in the U.K. and in New Zealand. Harwood Expert Report, Ex. A, at 2. She also contributed substantially to the U.S. Environmental Protection Agency ("EPA") Microbial Source Tracking Guide Document. *Id.* Dr. Harwood is a reviewer for many scientific journals, including Environmental Science & Technology, Microbiology and Journal of Applied Microbiology, and is a member of the editorial review board of AEM. *Id.* She has served on state and federal grant panels, including Sea Grant, National Oceanic and Atmospheric Administration ("NOAA") and the United States Department of Agriculture ("USDA"), and has been awarded over $3 million in grant funding from various agencies, including the National Science Foundation, NOAA, Sea Grant, USDA, EPA and National Institutes of Health. *Id.*

During the hearing on the State's Motion for Preliminary Injunction, Defendants' own expert, Dr. Samuel Myoda, acknowledged that Dr. Harwood was a contributing editor to EPA's Microbial Source Tracking Guide Document, that she has done "quite a few studies" on MST and has been working on source tracking for "quite some time." Myoda testimony, Ex. B, at 1924:5-15

evidence despite the finding that their work had not been peer reviewed or published. Dkt. #1700 at 2 ("The Court concludes that in this case, the proffered testimony of experts Harwood and Olson ought not be stricken and that defendants' arguments will be considered as to the weight, not the admissibility, thereof."); Dkt. #1765 at 6.

Counsel for Tyson communicated with AEM for a third time on December 8, 2008. *See* Dkt. #1851-18. In this letter, Mr. Jorgensen provided summaries of some of Defendants' litigation experts' reports and attached those reports for AEM's consideration. *Id.* By this time, the State had filed its Notice of Appeal and Docketing Statement with the Tenth Circuit. In the Docketing Statement, the State indicated that one of the issues on appeal would be "[w]hether the District Court erred in its application of *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), to conclude that the opinions of Drs. Valerie Harwood and Roger Olsen were 'not sufficiently reliable.'" Docketing Statement, Ex. F, at 4. The letter did not mention the State's appeal.

With all of this as background, the State has had warranted concerns about any further intrusion from lawyers upon the scientific peer review process. In response to a January 4, 2009 email request from Defendants for supplemental peer review production, the State responded as follows:

> "…in connection with your request for the documents related to the articles prepared by Harwood and Olsen, we need to discuss how we can protect the scientific process *and provide to Defendants the documents which you have requested in a timely manner*."

Email from Bullock to Jorgensen, 1/6/09, Ex. C (emphasis added). Therefore, contrary to Tyson's repeated assertions in its Motion to Compel that the State has "refused" to produce requested peer review materials, the State has always been willing to work with Tyson toward a reasonable production schedule that would protect the integrity and

credibility of the peer review process *and* accommodate Tyson's alleged need for the production.

On January 12, 2009, lawyers for the State and Defendants participated in a "meet and confer" conference in order to discuss these very issues. In the Motion to Compel, Tyson claims that "[d]uring that meet and confer, Plaintiffs' [sic] counsel refused to produce any of the remaining peer review materials until Drs. Harwood and Olsen's work[[3]] had been accepted for publication and, then, only thirty days before the actual publication date." Motion to Compel at 7. *This is false.* In truth, knowing that Dr. Harwood had only just submitted her second manuscript to AEM in December 2008, during the meet and confer, the State proposed that it would supplement its peer review production: in a timely manner after the journal peer review process was complete (*i.e.*, once a decision had been made on whether to publish); or 30 days prior to any *Daubert* hearing, whichever event occurred sooner.

Tyson further claims that during the meet and confer, counsel for the State "maintained that withholding the peer review materials was…necessary…to prevent others outside the peer review process from offering scientific views contrary to the novel and untested theories of Drs. Harwood and Olsen." Motion to Compel at 7. *This is also false.* First of all, no lawyer for the State described the work of Drs. Harwood or Olsen as "novel" or "untested." And, in fact, the methodologies utilized by Drs. Harwood and Olsen are neither novel nor untested.[4] Secondly, the State has not expressed a desire to

---

[3] Again, Tyson seems to be under the mistaken impression that Dr. Olsen has submitted his PCA work for publication. To date, he has not.

[4] PCR is a methodology used to detect and amplify a specific genetic component of an organism. Harwood Testimony, Preliminary Injunction Hearing, Tr. Vol. III at 647:11-18. PCR is considered by the scientific community to be a reliable method to

"prevent others outside the peer review process from offering scientific views contrary" to the views of Drs. Harwood and Olsen. Indeed, the State has not, and could not prevent the Defendants' experts from attempting to publish on these very topics.

Nonetheless, on January 23, 2009, AEM informed Dr. Harwood that her manuscript had not been selected for publication, thereby ending the AEM peer review process. The State subsequently began efforts to obtain the AEM-related documents from Dr. Harwood and Jennifer Weidhaas (a co-author). As previously promised, the State timely provided the requested peer review documents to Tyson on February 19 and 23, 2009, respectively. *See* Letters from Bullock to Bond, 2/19/09, and from Blakemore to Bond, 2/23/09, Exs. D and E.

---

detect specific bacteria. *Id.* at 647:19-648:4. As Dr. Harwood testified, PCR is "very widely used in the forensic and the clinical communities and it's making major inroads into environmental microbiology as well." *Id.* at 648:2-4. The PCR methodology employed in this case "is essentially the same" methodology that is used in the criminal context to determine whether someone's DNA is in a crime scene or in hospitals to identify the source of a disease. *Id.* at 648:5-12. Defendants' own expert, Dr. Samuel Myoda, has testified that PCR is a "common laboratory procedure[]" which he uses "every day." Myoda Testimony, Tr. Vol. VII at 1864:23-1865:2.

PCA is one of the statistical methods used in the weight of evidence approach. *See* Olsen Testimony, Tr. Vol. III at 779:7-8. As Dr. Olsen testified, PCA is "used in many, many sciences, different scientific fields. But for environmental sites, it's used on sites that have a large number of contaminants." *Id.* at 779:11-13. "[I]n environmental sites that have a large number of contaminants, it's a statistical technique that allows us to determine the relationship of all those contaminants and the difference of all those contaminants among each other." *Id.* at 805:22-806:1. One of its primary uses in the environmental field is to identify sources of contamination. *Id.* at 779:16-20. It is recognized in the scientific community as a reliable method for identifying sources of contamination in environmental sites, and a review of peer reviewed literature reveals over a dozen papers that have used PCA as a technique to identify sources of contamination. *Id.* at 779:21-780:7. Indeed, the Poultry Integrators' own expert, Dr. Remy Hennet, has on more than one occasion himself used PCA for the purpose of identifying sources of contamination (as early as 1981 and as recently as 2007). Testimony of Hennet, Tr. Vol. VI at 1601:23-1602:11.

We will likely never know what influence Tyson's counsel's communications had on AEM's peer review process. What we do know is that – with those communications to AEM – it was Tyson's clear intent to intrude upon and influence the scientific peer review process as it pertains to Dr. Harwood. And, ultimately, AEM chose not to select Dr. Harwood's manuscript for publication. The State could have, as it did to large degree during the Preliminary Injunction hearing, rebutted each of the arguments made in all of counsel for Tyson's communications to AEM. However, it was the State's belief that a lawyer's arguments should be presented to a judge rather than the editor-in-chief of a scientific journal.

Tyson filed its Motion to Compel on February 12, 2009. Dkt. # 1851. As part of the Motion to Compel, Tyson seeks an order compelling scientific journal-related peer review materials (as discussed above) *and* peer review-type materials from two of the State's consulting, non-testifying experts. *Id.* The consulting expert materials should not be compelled as they have not been requested and because they are protected by the work product doctrine. Furthermore, because there are no Olsen journal peer review materials to date, there is nothing to produce or compel. Because the Harwood journal peer review materials have already been produced, that issue is moot. And, under the circumstances, the State's production of those materials was reasonable, timely and responsible. The Motion to Compel should therefore be denied.

ARGUMENT AND AUTHORITY

PROPOSITION: TYSON'S MOTION TO COMPEL SHOULD BE DENIED

A. Tyson is Not Entitled to Production of Peer Review Materials Submitted to and Generated by the State's Retained Consulting Experts

As part of its Motion to Compel, Tyson is seeking an order compelling the production of the "work product" of Dr. Jim Sadowsky and any material generated by an independent scientist retained by the State to review Dr. Olsen's work. Motion to Compel at 5. Dr. Sadowsky has been hired by the State as a consulting expert to evaluate the work of Dr. Harwood. Dr. Sadowsky has not been listed as a testifying witness. Similarly, the State has retained a consulting expert to evaluate Dr. Olsen's PCA work. However, as with Dr. Sadowsky, this consulting expert has not been listed as a testifying expert. Currently, the State has made no decision regarding either consulting expert to testify in any capacity. It is possible that these consulting experts could be called to testify at a *Daubert* hearing should one be filed. However, currently, there is no pending *Daubert* motion, let alone a hearing date. The State will not make any determination about whether either consulting expert will testify until such time as Defendants file a *Daubert* motion and the State has time to review and analyze that motion.

The State is not required to produce materials generated by these consulting experts.

First, Tyson has not even requested materials generated by these consulting experts. Tyson requested correspondence with, and materials submitted to, "any publication, association, journal, or other entity for peer review and/or publication." Motion to Compel at 3-4. An individual consultant is not a "publication, association or other entity." Thus, the State's consulting experts are beyond the scope of Tyson's requests.

Second, even if the Court determines that Tyson requested materials generated by or submitted to the State's consulting experts, such materials are protected under the

work product doctrine. In response to each of Tyson's Requests for Production at issue, the State objected as follows:

> "The State objects to this request to the extent it seeks information protected by the attorney client privilege or work product protection. Further, the State objects to this interrogatory to the extent that it seeks information known or opinions held by expert consultants retained or specially employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B)."

Dkt. #1851-2 at 5-6; 8-9. This is a meritorious objection.

As this Court has previously recognized, "[t]he work-product doctrine protects materials prepared by attorneys themselves, *and also by their agents*." *B.H. v. Gold Fields Mining Corp.*, 239 F.R.D. 652, 655 (N.D. Okla. 2005) (Cleary, M.J.) (citing *United States v. Nobles*, 422 U.S. 225, 238-39 (1975)). Under Rule 26(b)(4)(B), a party ordinarily may not obtain discovery of "facts known or opinions held by" an expert who has been retained by another party in anticipation of litigation or to prepare for trial and who is "not expected to be called as a witness at trial." The consulting experts at issue here were retained by the State in anticipation of litigation or to prepare for trial and are not expected to be called as witnesses at trial. Consequently, even if the Court determines that Tyson has requested consulting expert materials, those materials are confidential work product and should not be compelled.

B. The Motion to Compel Should be Denied with Respect to Dr. Olsen's Work Because There is Nothing to Compel

With respect to Dr. Olsen, Tyson requested peer review-related materials generated in relation to "the scientific opinions provided or to be provided by [Dr. Olsen]…including but not limited to Dr. Olsen's development of a 'definitive poultry waste signature,'…" Motion to Compel at 3-4. As established above, no such materials

exist. To date, Dr. Olsen has not corresponded with any scientific journal or submitted any manuscript for consideration. As such, with respect to Dr. Olsen, there is simply nothing to produce or compel.

C. The Motion to Compel With Respect to Dr. Harwood's Work Should be Denied as Moot

The pertinent background with respect to Dr. Harwood is set forth in detail above. In sum, a substantial amount of the Harwood-related peer review correspondence and materials was produced to Tyson in May and July 2008. As noted above, there was very little peer review-related activity from July to October 2008, and Dr. Harwood did not submit her second manuscript to AEM until December 2008. After the series of unfortunate correspondence from Tyson's counsel to AEM in which Tyson blatantly attempted to interfere with and influence the peer review process, the State supplemented its production after that peer review process had ended (as it promised it would). And those supplemental materials were produced within thirty (30) days after Dr. Harwood was notified by AEM that her manuscript had not been selected for publication. Now, all the AEM materials have been produced and Tyson's Motion to Compel with respect to Dr. Harwood is moot.

Nevertheless, anticipating that Tyson will argue that the State wrongfully delayed or withheld supplementation, the State offers the following. Tyson claims in its Motion to Compel that it "is not seeking to interfere with editorial process of AEM." Motion to Compel at 17. This is a truly absurd claim. As shown above, from the moment Tyson learned that Dr. Harwood had submitted a manuscript to AEM, it inserted itself right into the middle of AEM's editorial process with the undeniable intention of influencing that process. Tyson openly and aggressively attempted to influence that process with its

series of communications with AEM – replete with legal arguments and raising the specter of purported "lawyer-driven" science. Rather than improperly attempting to inject itself in the scientific process like Tyson had done and engage in a "briefing battle" before the editor-in-chief of a scientific journal, the State chose to simply let the events play out.

Under the circumstances – including the fact that there were very few peer review-related documents generated between July and October 2008 and that Dr. Harwood did not submit her second manuscript to AEM until December 2008 – it was appropriate, reasonable and substantially justified for the State to supplement its production after the peer review process had been completed. In a recent case where peer review comments were sought via subpoena *duces tecum* from the New England Journal of Medicine ("NEJM") (a third party), the District of Massachusetts held that the NEJM was entitled to a protective order. *In re Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation,* 249 F.R.D. 8, 15 (D.Mass. 2008). In granting the protective order, the *In re Bextra* Court relied in part on NEJM's argument that, "if reviewers thought their names *or reviews* would be subject to disclosure in unrelated litigation, there would be a 'chilling effect' on the peer review process. . . ." *In re Bextra*, 249 F.R.D. at 14 (emphasis added). Another court has observed that "it is not unreasonable to believe that compelling production of peer review documents would compromise the process." *In re Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation,* 2008 WL 4345158, *3 (N.D. Ill. March 14, 2008).

It is anyone's guess what type of "effect" Tyson's obtrusive conduct had on AEM's peer review process here. But the integrity of the scientific peer review process

cannot be assured when lawyers are treating the editor-in-chief of a peer review journal as if he were an arbitrator. As a party to this litigation with certain retained experts seeking publication of their work, it has never been the State's position that it may outright refuse to produce peer review materials. However, the State takes the reasonable and substantially justified position that under all the surrounding circumstances it was reasonable to supplement its production after the peer review process was complete.

WHEREFORE, premises considered, Tyson's Motion to Compel should be denied.

Respectfully submitted,

W.A. Drew Edmondson, OBA # 2628
ATTORNEY GENERAL
Kelly H. Burch, OBA #17067
J. Trevor Hammons, OBA #20234
ASSISTANT ATTORNEYS GENERAL
STATE OF OKLAHOMA
313 N.E. 21st St.
Oklahoma City, OK 73105
(405) 521-3921

M. David Riggs, OBA #7583
Joseph P. Lennart, OBA #5371
Richard T. Garren, OBA #3253
Sharon K. Weaver, OBA #19010
Robert A. Nance, OBA #6581
D. Sharon Gentry, OBA #15641
David P. Page, OBA #6852
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

/s/ Louis W. Bullock
Louis W. Bullock, OBA #1305
Robert M. Blakemore, OBA #18656
BULLOCK BULLOCK & BLAKEMORE
110 West 7th Street, Suite 707

Tulsa, OK 74119-1031
(918) 584-2001

Frederick C. Baker (*pro hac vice*)
Lee M. Heath (*pro hac vice)*
Elizabeth C. Ward (*pro hac vice*)
Elizabeth Claire Xidis (*pro hac vice*)
MOTLEY RICE, LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
(843) 216-9280

William H. Narwold (*pro hac vice*)
Ingrid L. Moll (*pro hac vice)*
MOTLEY RICE, LLC
20 Church Street, 17th Floor
Hartford, CT 06103
(860) 882-1676

Jonathan D. Orent (*pro hac vice)*
Michael G. Rousseau (*pro hac vice)*
Fidelma L. Fitzpatrick (*pro hac vice)*
MOTLEY RICE, LLC
321 South Main Street
Providence, RI 02940
(401) 457-7700

ATTORNEYS FOR PLAINTIFF, STATE OF OKLAHOMA

CERTIFICATE OF SERVICE

I certify that on the 23rd day of February, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W.A. Drew Edmondson, Attorney General — fc_docket@oag.ok.gov
Kelly Hunter Burch, Assistant Atty General — kelly.burch@oag.ok.gov
J. Trevor Hammons, Assistant Atty General — trevor.hammons@oag.ok.gov
Daniel P. Lennington, Assistant Atty General — daniel.lennington@oag.ok.gov
OFFICE OF THE ATTORNEY GENERAL , STATE OF OKLAHOMA

M. David Riggs — driggs@riggsabney.com
Joseph P. Lennart — jlennart@riggsabney.com
Richard T. Garren — rgarren@riggsabney.com
Sharon K. Weaver — sweaver@riggsabney.com
Robert A. Nance — rnance@riggsabney.com

D. Sharon Gentry sgentry@riggsabney.com
David P. Page dpage@riggsabney.com
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

Louis W. Bullock lbullock@bullock-blakemore.com
Robert M. Blakemore bblakemore@bullock-blakemore.com
BULLOCK BULLOCK & BLAKEMORE

Frederick C. Baker fbaker@motleyrice.com
Lee M. Heath lheath@motleyrice.com
William H. Narwold bnarwold@motleyrice.com
Elizabeth C. (Liza) Ward lward@motleyrice.com
Elizabeth Claire Xidis cxidis@motleyrice.com
Ingrid L. Moll imoll@motleyrice.com
Jonathan D. Orent jorent@motleyrice.com
Michael G. Rousseau mrousseau@motleyrice.com
Fidelma L. Fitzpatrick ffitzpatrick@motleyrice.com
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFF, STATE OF OKLAHOMA

Robert P. Redemann rredemann@pmrlaw.net
David C. Senger david@cgmlawok.com
PERRINE, McGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders rsanders@youngwilliams.com
E. Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS
COUNSEL FOR DEFENDANT CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

John H. Tucker jtucker@rhodesokla.com
Kerry R. Lewis klewis@rhodesokla.com
Colin H. Tucker chtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry W. West terry@thewestlawfirm.com
THE WEST LAW FIRM

Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann C. Kleibacker Lee kklee@faegre.com
Todd P. Walker twalker@faegre.com
Christopher H. Dolan cdolan@faegre.com
Melissa C. Collins mcollins@faegre.com
FAEGRE & BENSON LLP

Dara D. Mann dmann@mckennalong.com
McKENNA, LONG & ALDRIDGE LLP

COUNSEL FOR DEFENDANT CARGILL, INC. and CARGILL TURKEY PRODUCTION, LLC

George W. Owens gwo@owenslawfirmpc.com
Randall E. Rose rer@owenslawfirmpc.com
OWENS LAW FIRM, P.C.

James M. Graves jgraves@bassettlawfirm.com
Gary V. Weeks gweeks@bassettlawfirm.com
Woody Bassett wbassett@bassettlawfirm.com
K.C. Dupps Tucker kctucker@bassettlawfirm.com
BASSETT LAW FIRM

COUNSEL FOR DEFENDANT GEORGE'S INC. AND GEORGE'S FARMS, INC.

A. Scott McDaniel smcdaniel@mhla-law.com
Nicole Longwell nlongwell@mhla-law.com
Philip D. Hixon phixon@mhla-law.com
Craig A. Mirkes cmirkes@mhla-law.com
McDANIEL HIXON LONGWELL & ACORD, PLLC

Sherry P. Bartley sbartley@mwsgw.com
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC

COUNSEL FOR DEFENDANT PETERSON FARMS, INC.

John R. Elrod jelrod@cwlaw.com
Vicki Bronson vbronson@cwlaw.com
Bruce W. Freeman bfreeman@cwlaw.com
CONNER & WINTERS, LLP

COUNSEL FOR DEFENDANT SIMMONS FOODS, INC.

Robert W. George robert.george@tyson.com
L. Bryan Burns bryan.burns@tyson.com
TYSON FOODS INC

Michael R. Bond michael.bond@kutakrock.com
Erin W. Thompson erin.thompson@kutakrock.com
Dustin Darst dustin.darst@kutakrock.com
Tim Jones tim.jones@kutakrock.com
KUTAK ROCK LLP

Stephen Jantzen sjantzen@ryanwhaley.com
Paula Buchwald pbuchwald@ryanwhaley.com
Patrick M. Ryan pryan@ryanwhaley.com
RYAN, WHALEY & COLDIRON

Mark D. Hopson mhopson@sidley.com
Timothy Webster twebster@sidley.com
Jay T. Jorgensen jjorgensen@sidley.com
Gordon D. Todd gtodd@sidley.com

SIDLEY AUSTIN LLP
COUNSEL FOR DEFENDANTS TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., and COBB-VANTRESS, INC.

R. Thomas Lay rtl@kiralaw.com
KERR, IRVINE, RHODES & ABLES

Jennifer S. Griffin jgriffin@lathropgage.com
David Brown dbrown@lathropgage.com
Frank M. Evans III fevans@lathropgage.com
LATHROP & GAGE, L.C.
COUNSEL FOR DEFENDANT WILLOW BROOK FOODS, INC.

Robin S. Conrad rconrad@uschamber.com
NATIONAL CHAMBER LITIGATION CENTER

Gary S. Chilton gchilton@hcdattorneys.com
HOLLADAY, CHILTON AND DEGIUSTI, PLLC
COUNSEL FOR US CHAMBER OF COMMERCE AND AMERICAN TORT REFORM ASSOCIATION

D. Kenyon Williams, jr. kwilliams@hallestill.com
Michael D. Graves mgraves@hallestill.com
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON
COUNSEL FOR POULTRY GROWERS / INTERESTED PARTIES / POULTRY PARTNERS, INC.

Richard Ford richard.ford@crowedunlevy.com
LeAnne Burnett leanne.burnett@crowedunlevey.com
CROWE & DUNLEVY
COUNSEL FOR OKLAHOMA FARM BUREAU, INC.

Kendra A. Jones, Assistant Attorney General kendra.jones@arkansasag.gov
Charles L. Moulton, Sr. Ass't AG charles.moulton@arkansasag.gov
OFFICE OF THE ATTORNEY GENERAL, STATE OF ARKANSAS
COUNSEL FOR STATE OF ARKANSAS

Mia Vahlberg mvahlberg@gablelaw.com
GABLE GOTWALS

James T. Banks jtbanks@hhlaw.com
Adam J. Siegel ajsiegel@hhlaw.com
HOGAN & HARTSON
COUNSEL FOR NATIONAL CHICKEN COUNCIL, U.S. POULTRY & EGG ASS'N AND NATIONAL TURKEY FEDERATION

John D. Russell jrussell@fellerssnider.com
William A. Waddell, Jr. waddell@fec.net
David E. Choate dchoate@fec.net

FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS P.C.
COUNSEL FOR ARKANSAS FARM BUREAU FEDERATION

Barry G. Reynolds reynolds@titushillis.com
Jessica E. Rainey jrainey@titushillis.com
TITUS HILLIS REYNOLDS LOVE DICKMAN & McCALMON

William S. Cox III wcox@lightfootlaw.com
Nikaa B. Jordan njordan@lightfootlaw.com
LIGHTFOOT FRANKLIN & WHITE LLC
COUNSEL FOR AMERICAN FARM BUREAU FEDERATION and NATIONAL CATTLEMEN'S BEEF ASSOCIATION, AMICUS CURIAE

Richard Mullins richard.mullins@mcafeetaft.com
McAFEE & TAFT PC
COUNSEL FOR TEXAS FARM BUREAU, TEXAS CATTLE FEEDERS ASSN, TEXAS PORK PRODUCERS ASSN, AND TEXAS ASSN OF DAIRYMEN

/s/ Louis W. Bullock
Louis W. Bullock